

The Honorable _____

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
AT PORTLAND**

HAPPY PRODUCTS, INC., *a Delaware corporation,*

Plaintiff,

vs.

HRONCICH ENTERPRISES LLC, *a New Jersey corporation,* dba DAILY SHOP CLUB,
and MARINO HRONCICH, *an individual,*
MARYANN HRONCICH, *an individual,* and
NIKOLINO HRONCICH, *an individual,*

Defendants.

NO: _3:20-cv-1294

COMPLAINT FOR COPYRIGHT
INFRINGEMENT, AND TRADEMARK
INFRINGEMENT

JURY DEMAND

Plaintiff Happy Products, Inc. (“Happy Products”) state the following for their Complaint against Hroncich Enterprises LLC—dba Daily Shop Club—and individuals Marino Hroncich, MaryAnn Hroncich, and Nikolino Hroncich (collectively, “Hroncich” or “Defendants”).

NATURE OF THE CASE

1. This is an action for copyright infringement arising under the copyright laws of the United States (codified at 17 U.S.C. §§ 101 *et seq.*); for trademark infringement and dilution, unfair competition, and unfair business practices arising under the trademark laws of the United

1 States (codified at 15 U.S.C. §§ 1051 *et seq.*) (“Lanham Act”); the anti-dilution laws of several
2 states; the fair business practices and unfair deceptive trade practices acts of several states; and
3 the common law.

4 5 JURISDICTION AND VENUE

6 2. This Court has subject matter jurisdiction under section 39 of the Lanham Act, 15
7 U.S.C. § 1121, and under the Copyright Act via 28 U.S.C. §§ 1331 and 1338. Subject matter
8 jurisdiction over Plaintiff Happy Products’ related state and common law claims is proper
9 pursuant to 28 U.S.C. §§ 1338 and 1367.

10 3. This Court has personal jurisdiction over Defendants because, *inter alia*,
11 Defendants have purposefully availed themselves of the right to do business in this district via
12 their website dailyshopclub.com and, under information and belief, via sales of infringing
13 products to customers within this district including distribution of infringing materials that
14 directly injure Plaintiff Happy Products through lost sales and damage to its reputation.

15 4. Venue is proper in the District Court for the District of Oregon, pursuant to 28
16 U.S.C. §§ 1391(b), because a substantial part of the acts or omissions giving rise to Plaintiff
17 Happy Products’ claims occurred in this District.

18 19 PARTIES

20 5. Plaintiff Happy Products is a Delaware corporation with its principal business
21 address at 1801 NW Upshur St., Suite #430, Portland, Oregon 97209. Happy Products directs all
22 operations out of its offices in Oregon, including sales, brand marketing, product marketing,
23 product design, public relations, distribution, enforcement, and licensing of FLIPPY-branded
24 products marketing, sales, and product design activities.

1 6. On information and belief, defendant Hroncich Enterprises LLC is a limited
2 liability company registered in New Jersey and with a mailing and business address at 11
3 Hearthstone Dr., North Haledon, NJ 07508, where purchases of infringing products by customers
4 through the Daily Shop Club website are made to the PayPal account registered to Hroncich
5 Enterprises, LLC.

6 7. On information and belief, defendant Daily Shop Club is a dba of Hroncich
7 Enterprises LLC and serves as their sales and marketing arm. To this end, Daily Shop Club
8 operates the website dailyshopclub.com through which infringing products at issue in this case
9 are sold and shipped to customers. Customers of Daily Shop Club are instructed to return
10 defective products to Hroncich Enterprises at 11 Hearthstone Dr., North Haledon, NJ 07508.

11 8. On information and belief, defendant Marino Hroncich is an individual living at
12 11 Hearthstone Dr., North Haledon, NJ 07508 and is a member and registered agent of Hroncich
13 Enterprises LLC.

14 9. On information and belief, defendant MaryAnn Hroncich is an individual living at
15 11 Hearthstone Dr., North Haledon, NJ 07508 and is a member of Hroncich Enterprises LLC.

16 10. On information and belief, defendant Nikolino Hroncich is an individual living at
17 11 Hearthstone Dr., North Haledon, NJ 07508 and is a member of Hroncich Enterprises LLC.

18
19 **GENERAL ALLEGATIONS**

20 11. Happy Products has developed and patented a distinctive three-sided reading
21 pillow that it markets under the brand name FLIPPY through its website getflippy.com.

22 12. Happy Products is the owner of a federal trademark registration, Reg. No.
23 5,639,639, issued by the United States Patent and Trademark Office (“USPTO”) on December
24 25, 2018, for the term FLIPPY in connection with sale of its FLIPPY-brand reading pillow. A
25 copy of the Certificate of Registration for this mark is attached as Exhibit A.

1 13. Happy Products is the owner of a federal copyright registration, Reg. No. TX-8-
2 786-658, issued by the United States Copyright Office with an effective date of registration of
3 August 20, 2019, that grants Happy Products the exclusive right to, among other things, make
4 and distribute copies and derivative works of the text, artwork, photographs, and video included
5 within the getflippy.com website. A copy of the Certificate of Registration for this work is
6 attached as Exhibit B.

7 14. Happy Products has filed an application for copyright registration with the United
8 States Copyright Office for the Flippy Packaging it uses in connection with sales of its FLIPPY-
9 brand reading pillow. This packaging is included with all sales of authentic FLIPPY-brand
10 reading pillows and includes original text, artwork, and photographs describing the uses,
11 benefits, and history of the FLIPPY-brand reading pillow. A true and correct copy of Plaintiff's
12 application for copyright registration is attached as Exhibit C.

13 15. On information and belief, the Hroncich Defendants market their own three-sided
14 reading pillow, for sale on their Daily Shop Club website (dailyshopclub.com) and through
15 targeted Facebook ads, that is essentially identical to Happy Products' FLIPPY-brand reading
16 pillow. These Hroncich-sourced pillows are of demonstrably poorer quality than the authentic
17 FLIPPY-brand reading pillows designed and sold by Plaintiff Happy Products. Purchases of this
18 Hroncich pillow through Daily Shop Club results in a charge by Hroncich Enterprises, LLC.

19 16. On information and belief, the Hroncich Defendants ship their three-sided reading
20 pillows to their customers together with a counterfeit flyer that wrongly indicates that the pillows
21 received by Hroncich's customers are FLIPPY-brand products. The flyer is a nearly identical
22 knock-off to the packaging used by Plaintiff Happy Products for their authentic FLIPPY-brand
23 reading pillow, and uses the copyrighted text, design, and pictures, and trademarked FLIPPY
24 name. A copy of counterfeit flyer is attached as Exhibit D.

1 17. On information and belief, and due at least in part to customer receipt of these
2 counterfeit flyers with pillows purchased through Daily Shop Club, Plaintiff Happy Products has
3 received numerous complaints from Hronicich customers believing the poor-quality products
4 they received were authentic FLIPPY-brand reading pillows and that Happy Products is the
5 source of those pillows. Such customers have in fact been directed to contact Happy Products by
6 Daily Shop Club, who points to the fact that the pillows received by those customers included
7 the (counterfeit) FLIPPY flyer. These customer complaints have damaged the FLIPPY brand
8 and its reputation for providing quality, innovative products.

9
10 **FIRST CLAIM FOR RELIEF**

11 **COYRIGHT INFRINGEMENT**

12 **(17 U.S.C. §§ 106 and 501)**

13 **(By Plaintiff Against Defendants)**

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15 18. Plaintiff repeats and incorporates by reference the allegations in the preceding
16 paragraphs.

17 19. By copying, reproducing, and distributing identical or substantially similar
18 materials in the counterfeit flyer (Exhibit D) accompanying the Hronicich-sourced reading pillow,
19 Defendants have infringed Plaintiff's exclusive copyright (Exhibit B) in the text, artwork, and
20 photographs included within the getflippy.com website in violation of Sections 106 and 501 of
21 the Copyright Act, 17 U.S.C. §§ 106 and 501.

22 20. By copying, reproducing, and distributing identical or substantially similar
23 materials in the counterfeit flyer (Exhibit D) accompanying the Hronicich-sourced reading pillow,
24 Defendants have infringed Plaintiff's copyright (Exhibit C) in the FLIPPY packaging
25 accompanying all sales of the authentic FLIPPY-brand reading pillow—including Plaintiff's

1 exclusive rights in the text, artwork, and photographs describing the uses, benefits, and history of
2 the FLIPPY-brand reading pillow—in violation of Sections 106 and 501 of the Copyright Act,
3 17 U.S.C. §§ 106 and 501.

4 21. Defendants’ acts of infringement are willful, intentional and purposeful, in
5 disregard of and with indifference to Plaintiff’s rights.

6 22. As a direct and proximate result of said infringement by Defendants, Plaintiff is
7 entitled to damages and profits pursuant to 17 U.S.C. § 504(b), including an accounting of and a
8 constructive trust with respect to such profits in an amount to be proven at trial.

9 23. As a direct and proximate result of said willful and inexcusable infringement by
10 Defendants, Plaintiff is also entitled to statutory damages up to \$150,000 per infringement
11 pursuant to 17 U.S.C. § 504(c).

12 24. Plaintiffs further are entitled to their attorneys’ fees and full costs pursuant to 17
13 U.S.C. § 505 and otherwise according to law.

14 25. As a direct and proximate result of the foregoing acts and conduct, Plaintiff has
15 sustained and will continue to sustain substantial, immediate, and irreparable injury, for which
16 there is no adequate remedy at law. Plaintiff is informed and believes and on that basis aver that
17 unless enjoined and restrained by this Court, Defendants will continue to infringe Plaintiff’s
18 copyrighted materials found in Plaintiff’s FLIPPY-brand packaging and its getflippy.com
19 website. Plaintiff is entitled to preliminary and permanent injunctive relief to restrain and enjoin
20 Defendants’ continuing infringing conduct.

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22 **SECOND CLAIM FOR RELIEF**

23 **FEDERAL TRADEMARK INFRINGEMENT**

24 **(15 U.S.C. § 1114)**

25 **(By Plaintiff Against Defendants)**

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2 26. Plaintiff repeats and incorporates by reference the allegations in the preceding
3 paragraphs.

4 27. Defendants' use of the FLIPPY mark in their counterfeit flyer (Exhibit D) is
5 likely to and has caused confusion, deception, and mistake by creating the false and misleading
6 impression that Defendants' goods are manufactured or distributed by Plaintiff Happy
7 Products—the owner of the federal registration of the FLIPPY mark (Exhibit A)—or are
8 associated or connected with Plaintiff, or have the sponsorship, endorsement, or approval of
9 Plaintiff.

10 28. Defendants' use of the FLIPPY mark in their counterfeit flyer (Exhibit D) is
11 confusingly similar—and is intended to in fact be identical—to Plaintiff Happy Products'
12 federally registered FLIPPY mark (Exhibit A) in violation of 15 U.S.C. § 1114. Defendants'
13 activities are causing and, unless enjoined by this Court, will continue to cause a likelihood of
14 confusion and deception of members of the trade and public, and, additionally, injury to
15 Plaintiff's goodwill and reputation as symbolized by Plaintiff's FLIPPY mark, for which
16 Plaintiff has no adequate remedy at law.

17 29. Defendants' actions demonstrate an intentional, willful, and malicious intent to
18 trade on the goodwill associated with Plaintiff's FLIPPY mark to Plaintiff's great and irreparable
19 harm.

20 30. Defendants have caused and are likely to continue causing substantial injury to
21 the public and to Plaintiff Happy Products, and Plaintiff is entitled to injunctive relief and to
22 recover Defendants' profits, actual damages, enhanced profits and damages, costs, and
23 reasonable attorneys' fees under 15 U.S.C. §§ 1114, 1116, and 1117.
24
25

THIRD CLAIM FOR RELIEF
FEDERAL UNFAIR COMPETITION
(15 U.S.C. § 1125(a))
(By Plaintiff Against Defendants)

31. Plaintiff repeats and incorporates by reference the allegations in the preceding paragraphs.

32. Defendants' use of Plaintiff's FLIPPY mark in their counterfeit flyer (Exhibit D) has caused and is likely to cause confusion, deception, and mistake by creating the false and misleading impression that Defendants' goods are manufactured or distributed by Defendant Happy Products, or are affiliated, connected, or associated with Plaintiff, or have the sponsorship endorsement, or approval of Plaintiff.

33. Defendants have made false representations, false descriptions, and false designations of, on, or in connection with its goods in violation of 15 U.S.C. § 1125(a). Defendants' activities have caused and, unless enjoined by this Court, will continue to cause a likelihood of confusion and deception of members of the trade and public, and, additionally, injury to Happy Products' goodwill and reputation as symbolized by Plaintiff's FLIPPY mark, for which Plaintiff has no adequate remedy at law.

34. Defendants' actions demonstrate an intentional, willful, and malicious intent to trade on the goodwill associated with Plaintiff's FLIPPY mark to Plaintiff's great and irreparable injury of Plaintiff Happy Products.

35. Defendants have caused and are likely to continue causing substantial injury to the public and to Plaintiff Happy Products, and Plaintiff is entitled to injunctive relief and to recover Defendants' profits, actual damages, enhanced profits and damages, costs, and reasonable attorneys' fees under 15 U.S.C. §§ 1114, 1116, and 1117.

FOURTH CLAIM FOR RELIEF
FEDERAL TRADEMARK DILUTION
(15 U.S.C. § 1125(c))
(By Plaintiff Against Defendants)

36. Plaintiff repeats and incorporates by reference the allegations in the preceding paragraphs.

37. Plaintiff Happy Products has exclusively and continuously promoted and used the FLIPPY mark, both in the United States and throughout the world. The FLIPPY mark has become a famous and well-known symbol within its industry well before Defendants began using the FLIPPY mark in association with their own low-quality counterfeit goods.

38. Defendants are making use in commerce of the FLIPPY mark, which dilutes and is likely to dilute the distinctiveness of Plaintiff's FLIPPY mark by eroding the public's exclusive identification of this famous FLIPPY mark with Happy Products, tarnishing and degrading the positive associations and prestigious connotations of the mark, and otherwise lessening the capacity of the mark to identify and distinguish Plaintiff's goods.

39. Defendants' actions demonstrate an intentional, willful, and malicious intent to trade on the goodwill associated with Plaintiff's FLIPPY mark to Plaintiff's great and irreparable injury of Plaintiff Happy Products.

40. Defendants have caused and are likely to continue to cause irreparable injury to Plaintiff Happy Products' goodwill and business reputations, and dilution of the distinctiveness and value of Plaintiff's famous and distinctive FLIPPY mark in violation of 15 U.S.C. § 1125(c). Plaintiff therefore is entitled to injunctive relief and to recover Defendants' profits, actual

1 damages, enhanced profits and damages, and reasonable attorneys' fees under 15 U.S.C. §§
 2 1114, 1116, and 1117.

3
 4 **FIFTH CLAIM FOR RELIEF**

5 **UNFAIR AND DECEPTIVE TRADE PRACTICES**

6 **(By Plaintiff Against Defendants)**

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 8 41. Plaintiff repeats and incorporates by reference the allegations in the preceding
 9 paragraphs.

10 42. Defendants have been and are passing off its goods as those of Plaintiff Happy
 11 Products, causing a likelihood of confusion or misunderstanding as to the source, sponsorship, or
 12 approval of Defendants' goods, causing a likelihood of confusion as to Defendants' affiliation,
 13 connection, or association with Plaintiff Happy Products, and otherwise damaging the public.

14 43. Defendants' conduct constitutes unfair and deceptive acts or practices in the
 15 course of a business, trade, or commerce in violation of the unfair and deceptive trade practices
 16 statutes of several states, including California CAL. BUS. & PROF. CODE § 17200, et seq.
 17 (West 2009); Colorado, COLO. REV. STAT. ANN. §§ 6-1-101 to 6-1-115 (West 2009);
 18 Delaware, DEL. CODE ANN. tit. 6, §§ 2531 to 2536 (2009); Georgia, GA. CODE ANN. §§ 10-
 19 1-370 to 10-1-375 (2009); Hawaii, HAW. REV. STAT. §§ 481A-1 to 481A-5 (2009); Illinois,
 20 ILL. COMP. STAT. ANN. ch. 815, 510/1 to 510/7 (2009); Maine, ME. REV. STAT. ANN. tit.
 21 10, §§ 1211 to 1216 (West 2009); Minnesota, MINN. STAT. ANN. § 325D.43 to .48 (West
 22 2020); Nebraska, NEB. REV. STAT. §§ 87-301 to 87-306 (2009); New Jersey, N.J. STAT.
 23 ANN. §§ 56:8-1 to 56:8-91 (West 2009); New Mexico, N.M. STAT. ANN. §§ 57-12-1 to 57-12-
 24 22 (Michie 2009); New York, N.Y. GEN. BUS. Law § 349 (McKinney 2009); Ohio, OHIO
 25 REV. CODE ANN. §§ 4165.01 to 4165.04 (Baldwin 2009); Oklahoma, OKLA. STAT. ANN. tit.

1 78, §§ 51 to 55 (West 2009); and Oregon, OR. REV. STAT. §§ 646.605 through 646.656 (West
2 2009).

3 44. Defendants' unauthorized use of a confusingly similar—and in fact identical—
4 imitation of Plaintiff's FLIPPY mark has caused and is likely to continue to cause substantial
5 injury to the public and to Plaintiff Happy Products. Plaintiff, therefore, is entitled to injunctive
6 relief and to recover damages and, if appropriate, punitive damages, costs, and reasonable
7 attorneys' fees.

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9 **SIXTH CLAIM FOR RELIEF**

10 **COMMON LAW TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION**

11 **(By Plaintiff Against Defendants)**

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13 45. Plaintiff repeats and incorporates by reference the allegations in the preceding
14 paragraphs.

15 46. Defendants' acts constitute common law trademark infringement and unfair
16 competition, and have created and will continue to create, unless restrained by this Court, a
17 likelihood of confusion to the irreparable injury of Plaintiff Happy Products. Plaintiff has no
18 adequate remedy at law for this injury.

19 47. On information and belief, Defendants acted with full knowledge of Plaintiff's
20 use of, and statutory and common law rights to, Plaintiff's FLIPPY mark and without regard to
21 the likelihood of confusion of the public created by Defendants' activities.

22 48. Defendants' actions demonstrate an intentional, willful, and malicious intent to
23 trade on the goodwill associated with Plaintiff's FLIPPY mark and to the great and irreparable
24 injury of Plaintiff Happy Products.

49. As a result of Defendants' acts, Plaintiff Happy Products has been damaged in an amount not yet determined or ascertainable. At a minimum, however, Plaintiff is entitled to injunctive relief, to an accounting of Defendants' profits, damages, and costs. Further, in light of the deliberate and malicious copying and distribution of Plaintiff's copyrighted materials and use of Plaintiff's registered FLIPPY trademark in association with sales of the their counterfeit reading pillow, and the need to deter Defendants from engaging in similar conduct in the future, Plaintiff is entitled to punitive damages.

SEVENTH CLAIM FOR RELIEF

STATE TRADEMARK DILUTION AND INJURY TO BUSINESS REPUTATION

(By Plaintiff Against Defendants)

50. Plaintiff repeats and incorporates by reference the allegations in the preceding paragraphs.

51. Plaintiff Happy Products has exclusively and continuously promoted and used the FLIPPY mark throughout the United States, and the FLIPPY mark has become a distinctive, famous, and well-known symbol within its industry of Plaintiff Happy Products' goodwill before Defendants began infringing the FLIPPY mark in association with their own low-quality counterfeit goods.

52. Defendants' conduct dilutes and is likely to continue to dilute the distinctiveness of Plaintiff's FLIPPY mark by eroding the public's exclusive identification of this famous FLIPPY mark with Plaintiff Happy Products, and tarnishing and degrading the positive associations and prestigious connotations of the mark, and otherwise lessening the capacity of the mark to identify and distinguish Plaintiff's goods.

53. Defendants are causing and will continue to cause irreparable injury to Plaintiff Happy Products' goodwill and business reputation and dilution of the distinctiveness and value of Plaintiff's famous and distinctive mark in violation of the Oregon anti-dilution statute, O.R.S. § 647.107 (2009), as well as the anti-dilution laws of several other states, including Alabama, ALA. CODE § 8-12-17 (2009); Alaska, ALASKA STAT. § 45.50.180 (Michie 2009); Arizona, ARIZ. REV. STAT. ANN. § 44-1448.01 (West 2009); Arkansas, ARK. CODE ANN. § 4-71-213 (2009); California, CAL. BUS. & PROF. CODE § 14247 (West 2009); Connecticut, CONN. GEN. STAT. ANN. § 35-11i(c) (West 2009); Delaware, DEL. CODE ANN. tit. 6, § 3313 (2009); Florida, FLA. STAT. ANN. § 495.151 (West 2007); Georgia, GA. CODE ANN. § 10-1-451 (2009); Hawaii, HAW. REV. STAT. ANN. § 482-32 (Michie 2009); Idaho, IDAHO CODE § 48-513 (Michie 2009); Illinois, 765 ILL. COMP. STAT. ANN. 1036/65 (2009); Iowa, IOWA CODE ANN. § 548.113 (West 2009); Indiana, IN. CODE 24-2-13.5 (West 2009); Kansas, KAN. STAT. ANN. § 81-214 (2009); Louisiana, LA. REV. STAT. ANN. § 51:223.1 (West 2009); Maine, ME. REV. STAT. ANN. tit. 10, § 1530 (West 2000); Massachusetts, MASS. GEN. LAWS. ANN. ch. 110H, § 13 (West 2009); Minnesota, MINN. STAT. ANN. § 333.285 (West 2009); Mississippi, MISS. CODE. ANN. § 75-25-25 (2009); Missouri, MO. ANN. STAT. § 417.061(1) (West 2009); Montana, MONT. CODE ANN. § 30-13-334 (2009); Nebraska, NEB. REV. STAT. ANN. § 87-140 (Michie 2009); Nevada, NEV. REV. STAT. 600.435 (2007); New Hampshire, N.H. REV. STAT. ANN. § 350-A:12 (2009); New Jersey, N.J. STAT. ANN. 56:3-13.20 (West 2009); New Mexico, N.M. STAT. ANN. § 57-3B-15 (Michie 2009); New York, N.Y. GEN. BUS. Law § 360-1 (2009); Pennsylvania, 54 PA. CONS. STAT. ANN. § 1124 (West 2009); Rhode Island, R.I. GEN. LAWS § 6-2-12 (2009); South Carolina, S. C. CODE ANN. § 39-15-1165 (2009); Tennessee, TENN. CODE ANN. § 47-25-513 (2009); Texas, TEX. BUS. & COM. CODE ANN. § 16.29 (Vernon 2009); Utah, UT. CODE ANN. § 70-3a-403 (2009);

1 Washington, WASH. REV. CODE ANN. § 19.77.160 (West 2009); West Virginia, W.V. STAT.
2 ANN. 47-2-13 (Michie 2009); and Wyoming, WYO. STAT. ANN. § 40-1-115 (Michie 2009).

3 54. Plaintiff Happy Products, therefore, is entitled to injunctive relief, damages, and
4 costs, as well as, if appropriate, enhanced damages, punitive damages, and reasonable attorneys'
5 fees.

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7
8 **RELIEF REQUESTED**

9 WHEREFORE, Plaintiff prays that:

10 A. Defendants and all of its agents, officers, employees, representatives, successors,
11 assigns, attorneys, and all other persons active for, with, by, through, or under authority from
12 Defendants, or in concert or participation with Defendants, and each of them, be enjoined from:

- 13 i. copying, distributing, or making any derivative works of materials
14 protected by copyright and owned by Plaintiff Happy Products ;
15 ii. advertising, marketing, promoting, offering for sale, distributing, or selling
16 the infringing product and accompanying materials;
17 iii. using Plaintiff's FLIPPY mark or any other copy, reproduction, colorable
18 imitation, or simulation of Plaintiff's FLIPPY mark on or in connection
19 with any of Defendants' goods;
20 iv. using any trademark, name, logo, design, or source designation of any
21 kind on or in connection with Defendants' goods or services this is a copy,
22 reproduction, colorable imitation, or simulation of, or confusingly similar
23 to any of Plaintiff Happy Products' trademarks, trade dresses, names, or
24 logos;

v. using any trademark, name, logo, design, or source designation of any kind on or in connection with Defendants' goods that is likely to cause confusion, mistake, deception, or public misunderstanding that such goods or services are produced or provided by Plaintiff Happy Products, or are sponsored or authorized by Plaintiff, or are in any way connected or related to Plaintiff;

vi. using any trademark, name, logo, design, or source designation of any kind on or in connection with Defendants' goods that dilutes or is likely to dilute the distinctiveness of Plaintiff's trademarks, trade dresses, names, or logos;

vii. passing off, palming off, or assisting in passing off or palming off Defendants' goods as those of Plaintiff Happy Products, or otherwise continuing any and all acts of unfair competition as alleged in this Complaint; and

viii. advertising, promoting, offering for sale, or selling the infringing Hroncich-sourced reading pillow.

B. Defendants be ordered to cease offering for sale, marketing, promoting, and selling and to recall all infringing Hroncich-sourced reading pillows, or any other goods bearing the infringing FLIPPY mark or any other a confusingly similar imitation of the FLIPPY mark that are in Defendants' possession or have been shipped by Defendants or under its authority, to any customer, including, but not limited to, any wholesaler, distributor, retailer, consignor, or marketer, and also to deliver to each such store or customer a copy of this Court's order as it relates to said injunctive relief against Defendants;

C. Defendants be ordered to deliver up for impoundment and for destruction, all goods, bags, boxes, labels, tags, signs, packages, receptacles, advertising, sample books,

1 promotional materials, stationery, or other materials in the possession, custody or under the
2 control of Defendants that are found to adopt, infringe, or dilute any of Plaintiff Happy Products'
3 copyrights or trademarks or that otherwise unfairly compete with Plaintiff and its products;

4 D. Defendants be compelled to account to Plaintiff Happy Products for any and all
5 profits derived by Defendants from the sale or distribution of the Hroncich-source reading
6 pillow;

7 E. Plaintiffs be awarded all damages caused by the acts forming the basis of this
8 complaint;

9 F. Based on Defendants' knowing and intentional use of a confusingly similar
10 imitation of Plaintiff Happy Products' FLIPPY-branded reading pillow together with
11 Defendants' unauthorized use of Plaintiff's FLIPPY trademark, the damages awarded be trebled
12 and the award of Defendants' profits be enhanced as provided for by 15 U.S.C. § 1117(a);

13 G. Defendants be required to pay to Plaintiff Happy Products the costs and
14 reasonable attorneys' fees incurred by Plaintiff in this action pursuant to 15 U.S.C. § 1117(a) and
15 to state statutes cited in this Complaint;

16 H. Based on Defendants' willful infringement of Plaintiff Happy Products'
17 copyrights, that Plaintiffs be entitled to and that Defendants pay statutory damages up to
18 \$150,000 per infringement pursuant to 17 U.S.C. § 504(c);

19 I. Defendants be required to pay to Plaintiff Happy Products the full costs and
20 reasonable attorneys' fees incurred by Plaintiff in this action pursuant to 17 U.S.C. § 505 and
21 otherwise according to law;

22 J. Based on Defendants' willful and deliberate infringement and/or dilution of
23 Plaintiff's FLIPPY mark, its use of a copyright infringing flyer to market its low-quality
24 counterfeit products, and to deter such conduct in the future, Plaintiff Happy Products be
25 awarded punitive damages;

1 K. Plaintiff Happy Products be awarded prejudgment interest on all monetary
2 awards; and

3 L. For such other and further relief as the Court may deem just and proper.
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5

6 **JURY TRAIL DEMAND**

7 Plaintiff Happy Products respectfully demands a trial by jury on all claims and issues so
8 triable.
9

10 Dated this 5th day of August, 2020.
11

12 **SCHAFFER IP LAW, LLC**

13 By: 
14 Scott A. Schaffer, OR Bar No. 944304
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17 Portland, OR 97201
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20 *Attorney for Plaintiff*
21 HAPPY PRODUCTS, INC.
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